

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
TALIPARAMBA

PRESENT : Sri. Anuraj.M.V.,

Judicial First Class Magistrate, Taliparamba

Dated this the 4th day of May, 2026/ 14th day of Vaisakha, 1948

Calender case No. 358/2021

Complainant : State represented by the S.I of
Police, Payyavoor police station in
Crime No. 17/2021
(By Sri.Abdussatar.V.P., A.P.P.)

Accused : 1. Prameen Mathew
2. C.D.Mathew
3. Rosamma
(By Adv. Danish Lukose)

Offence : U/s. 341, 323, 294(b), 506(i) r/w 34 IPC

Plea : Not guilty

Finding : Not guilty

Sentence/Order : Accused are acquitted u/s. 255(1) of
Cr.PC.

Description of accused

Sl. No 1	Name 2	Father's Name 3	Residence 4	Occupatio n 5	Age 6
1	Prameen Mathew	Mathew	Chennoth (H), Payyavoor amsom, Vannayikadavu	-----	42/21

2	C.D.Mathew	Devasya	Chennoth (H), Payyavoor amsom, Vannayikadavu	-----	86/21
3	Rosamma	Varkey	Chennoth (H), Payyavoor amsom, Vannayikadavu	-----	75/21

Date of :-

Occurrence	Complainant	Apprehension of appearance	Released on bail	Commencement of trial	Close of trial	Sentence /Order	Explanation of delay
15-02-21	15-02-21	06-07-22	06-07-22	06-07-22	27-04-26	04-05-26	

JUDGMENT

The accused was put on trial by the Sub Inspector of Police, Payyavoor police station, in crime No. 17/21, against the accused, alleging the commission of offences punishable U/s. 341, 323, 294(b), 506(i) r/w 34 IPC.

2. The prosecution case, in brief, is as follows: On 15.02.2021 at about 5:30 a.m., at Vannayikadavu in Payyavoor Amsom, the accused, in furtherance of their common intention, wrongfully restrained the de facto complainant. It is alleged that the first accused abused her with obscene words and caught hold of her neck, while the third accused twisted her left wrist, thereby causing hurt. The accused are thus alleged to have committed

offences punishable under Sections 341, 323, 294(b), and 506(i) read with Section 34 of the Indian Penal Code.

3. All accused appeared before the court, and they were released on bail. Copies of all relevant documents were furnished to them. Particulars of offences were read over and explained to the accused. They pleaded not guilty and claimed to be tried.

4. Thereafter, from the side of prosecution PW1 to PW9 witnesses were examined and Ext.P1 to P7 documents were marked. After closing the prosecution evidence, accused were questioned u/s.313(1)(b) of Cr.PC and they denied all the incriminating circumstances appearing in evidence against them. Thereafter, accused were called upon to enter their defence and to adduce their evidence. From the side of defence, Ext.D1 document was marked. No evidence was adduced on the side of the defence.

5. The following points arise for consideration.

- (1) Has the prosecution proved that the accused in furtherance of their common intention wrongfully restrained PW1 and thereby committed the offence punishable under section 341 of IPC?
- (2) Has the prosecution proved that the accused in furtherance of their common intention voluntarily caused hurt to PW1 with hands and thereby committed the offence punishable under section 323 of IPC?

- (3) Has the prosecution proved that the accused in furtherance of their common intention uttered obscene words at PW1 at or near public place and thereby committed the offence punishable u/s. 294(b) of IPC?
- (4) Has the prosecution proved that the accused in furtherance of their common intention criminally intimidated PW1 and thereby committed the offence punishable under section 506(i) of IPC?
- (5) Has the prosecution proved that the accused acted in furtherance of their common intention?
- (6) If found guilty what is the order as to sentence and punishment?

6. **Points Nos. 1 to 5:-**These points are considered together for the sake of convenience and to avoid repetition of the same evidence. Before advertng to the legal aspects of the case, it is necessary to briefly analyse the evidence adduced by the prosecution.

7. In order to prove its case, the prosecution examined PW1 to PW9 and marked Exts. P1 to P7. On the side of the defence, Ext.D1—being the certified copy of the common judgment in O.P. Nos. 236/2021, 237/2021, 240/2021, 1384/2021 and M.C. No. 60/2021 of the Family Court, Kannur was produced.

8. PW1 (Josiya Joseph), the de facto complainant who set the criminal law in motion by filing Ext.P1 complaint, deposed that the first accused is her husband and accused Nos. 2 and 3 are his parents. She stated that the marital relationship between herself and the first accused was strained. According to her, on 15.02.2021 at about 5:00 a.m., she went to the residence of the first accused to collect certain certificates kept there. At that time, the accused abused her with obscene words; the first accused caught hold of her neck, the second accused pulled her hair, and the third accused twisted her wrist, causing her injuries. She thereafter filed the complaint, which is marked as Ext.P1.

9. PW2, the mother of PW1, deposed that she, along with her son (CW2), accompanied PW1 to the residence of the accused. Her evidence is broadly in tune with that of PW1.

10. PW3, who was cited as a witness to the preparation of the scene mahazar, did not support the prosecution and was declared hostile.

11. PW4, the then Secretary-in-charge of Payyavoor Grama Panchayat, deposed that he issued Ext.P2 ownership certificate at the request of the police, which shows that the property belongs to one Mathew Chennoth.

12. PW5, another witness to the scene mahazar, also did not support the prosecution and was declared hostile.

13. PW6, a police officer attached to Payyavoor Police Station, deposed that he conducted part of the investigation and prepared the scene

mahazar, which was marked as Ext.P3. He also recorded the statements of CW1 and CW2.

14. PW7, another police officer, deposed that he continued the investigation, recorded the statements of CW4, CW6 and CW7, and issued notice to the accused under Section 41A Cr.P.C., which was marked as Ext.P4 series.

15. PW8, the then Sub Inspector of Police, Payyavoor Police Station, deposed that he was conversant with the handwriting and signature of the officer who registered the First Information Report, and the FIR was marked as Ext.P6. He completed the investigation and filed the final report.

16. PW9, the doctor examined as an additional witness, deposed that he was conversant with the handwriting and signature of Dr. Muhammad Kunhi, who had examined PW1 at Lourdes Hospital and who is no more. He identified the wound certificate issued by the said doctor, which was marked as Ext.P7.

17. At the time of arguments, the learned Assistant Public Prosecutor contended that the prosecution has proved the case beyond reasonable doubt. It was argued that the evidence of PW1 and PW2 remains consistent and unshaken, and that the strained marital relationship provides the motive for the occurrence. It was further submitted that the oral evidence is corroborated by Ext.P7 wound certificate, which establishes that PW1 sustained injuries. It was also pointed out that there is

no delay in lodging the complaint. Hence, it was prayed that the accused be appropriately punished.

18. Per contra, the learned counsel for the accused contended that the case is false and has been instituted as a counterblast to the proceedings before the Family Court, Kannur, which were decided against PW1. It was argued that PW1 has not approached the police directly but filed a complaint through counsel on the very same day, and no satisfactory explanation has been offered for not approaching the police. It was further contended that there are material contradictions in the evidence of PW1 and PW2, particularly regarding the place of occurrence, and that the prosecution has failed to prove the case beyond reasonable doubt. Hence, acquittal was sought.

19. The crux of the prosecution case is that PW1, the wife of the first accused, went to his residence to collect her documents, at which time the accused abused and assaulted her. The main defence raised is that there are material contradictions in the prosecution evidence, especially between the testimony of PW1 and the scene mahazar (Ext.P3), regarding the place of occurrence. It is also contended that the absence of a complaint to the police creates doubt about the genuineness of the prosecution case. It is, however, not in dispute that the first accused is the husband of PW1 and accused Nos. 2 and 3 are his parents.

20. It is also admitted by both sides that the marital relationship between PW1 and the first accused was strained, and that PW1 had initiated proceedings before the Family Court, Kannur, as evidenced by

Ext.D1. According to PW1, when she went to the residence of the accused along with her mother and brother, the accused, in furtherance of their common intention, assaulted her. However, in cross-examination, PW1 admitted that the incident occurred inside the central hall of the house and not in the sit-out, which is inconsistent with the version reflected in the scene mahazar. The relevant portion of her cross-examination reads: “സംഭവം നടന്നത് sit out ൽ വെച്ചല്ല, ഹാളിൽ വെച്ചാണ് സംഭവം.”

21. This contradiction assumes significance while appreciating the reliability of the prosecution case.

22. PW2, who is alleged to be an eyewitness to the incident, deposed in cross-examination that the occurrence took place inside the bedroom. She further stated that she had not seen PW1 lying in the central hall. The relevant portion of her cross-examination assumes significance: “PW1 central hall ൽ വീണുകിടക്കുന്നതായി കണ്ടിട്ടില്ല. PW1 നെ ഉപദ്രവിച്ചത് bedroom ൽ വെച്ചാണ്.” Thus, the evidence of PW1 and PW2 with respect to the place of occurrence is mutually contradictory and destructive of each other.

23. Another important aspect relates to the presence of PW2 and CW3 at the time of occurrence. In Ext.P1 First Information Statement, PW1 categorically stated that the incident was witnessed by PW2 (her mother) and CW3 (her brother). However, when examined before the Court, PW1 deposed that PW2 and CW3 had not witnessed the incident and were standing outside the house. This version is further supported by the evidence of PW2, who also stated that she had not witnessed the

incident. This material contradiction strikes at the root of the prosecution case.

24. Another significant aspect is the non-examination of CW3, who, according to the prosecution, is an eyewitness. Though it is settled that the Court must weigh the quality of evidence rather than the quantity, and that non-examination of a particular witness is not always fatal, in the present case CW3 is projected as a material witness. Despite coercive steps, the prosecution failed to secure his presence, and no satisfactory explanation has been offered for withholding such a crucial witness. This omission creates a serious dent in the prosecution case.

25. The learned counsel for the accused has also highlighted the absence of a police complaint. According to the prosecution, the incident occurred at about 5:30 a.m. on 15.02.2021, and on the very same day a complaint was filed before the Court through counsel. During cross-examination, PW1 and PW2 admitted that they did not approach the police and instead went directly to the office of the counsel with the wound certificate. No satisfactory explanation has been offered for bypassing the normal course of lodging a complaint with the police.

26. It is the case of PW1 that she had gone to the residence of the accused to collect certain documents, including her marriage certificate, when the alleged incident occurred. She admitted that the marriage certificate was handed over to the counsel and produced along with the complaint. In such circumstances, the failure to approach the police, despite alleging an assault and having obtained medical treatment, raises a

serious doubt regarding the bona fides of the prosecution case. This assumes greater significance in the background of admitted matrimonial disputes, including dismissal of proceedings initiated by PW1 before the Family Court.

27. The evidence relating to Ext.P7 wound certificate also requires careful scrutiny. PW1 deposed that she sustained injuries and thereafter went to Lourdes Hospital, Taliparamba, which is at some distance from the place of occurrence, despite the availability of nearer medical facilities, including Government hospitals and Primary Health Centres. It is further noteworthy that, as per the evidence of PW9, who identified the handwriting and signature of the deceased doctor, PW1 had disclosed only the name of the first accused in the wound certificate. The omission to mention the names of accused Nos. 2 and 3, who are also alleged to have participated in the assault, assumes significance.

28. It is also admitted by PW1 that accused Nos. 2 and 3 are elderly persons aged above 70 years at the time of the incident. Taking into account the contradictions in the prosecution evidence, the doubtful circumstances surrounding the occurrence, the absence of reliable eyewitness testimony, and the conduct of PW1, this Court is of the view that the prosecution version is not free from doubt. If doubt arises, the benefit of such doubt must necessarily go to the accused.

29. In **Kali Ram v. State of Himachal Pradesh (1973 KHC 634)**, the Hon'ble Supreme Court has held that if a reasonable doubt arises

regarding the guilt of the accused, the benefit of such doubt must be given to the accused, and conviction must rest on clear, cogent, and reliable evidence.

30. Applying the above principle to the facts of the present case, this Court is of the view that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. Hence, the accused are entitled to acquittal.

31. **Point No. 6:** In view of the findings on Points Nos. (i) to (v), the accused are found not guilty of the offences punishable under Sections 341, 323, 294(b), and 506(i) read with Section 34 of the Indian Penal Code.

32. **Point No.6:-** In view of the discussion on points Nos.(i) to (v), accused are found not guilty of the offences punishable u/s. 341, 323, 294(b), 506(i) r/w 34 IPC.

In the result, accused are found not guilty of the offences punishable under sections 341, 323, 294(b), 506(i) r/w 34 IPC and they are acquitted under section 255(1) of code of criminal procedure. Their bail bonds stand cancelled and they are set at liberty.

(Dictated to the confidential assistant, transcribed and typed by her corrected and pronounced by me in open court, on this, the 4th day of May 2026).

Sd/-

JUDICIAL FIRST CLASS MAGISTRATE,
TALIPARAMBA

APPENDIX

List of Prosecution/Defence/Court Witnesses

A. Prosecution Witnesses

Rank	Name	Whether Eye witness, Police witness, Expert witness, Medical witness, Other witness
PW1	Josiya Joseph	Eyewitness
PW2	Mary Joseph	Eyewitness
PW3	Varghese	Mahazar witness
PW4	E.V.Venugopal	Official witness
PW5	Thomas	Mahazar witness
PW6	Sumesh.E.	Police witness
PW7	Biju.M.V.	Police witness
PW8	Ashok Kumar.P.P.	Police witness
PW9	Dr. Joseph Benavan	Medical witness

B. Defence witness : NIL

C. Court witness : NIL

List of Prosecution/Defence/Court Exhibits

A. Prosecution Exhibits

Sl.No.	Exhibit number	Description
1	Ext.P1/PW1	Complaint dated 15.02.2021

2	Ext.P2/PW4	Ownership certificate dated 18.03.2021
3	Ext.P3/PW6	Scene mahazar dated 26.02.2021
4	Ext.P4/PW7	Notice u/s. 41(A) Cr.PC to A1 dated 03.05.2021
	Ext.P4(a)/PW7	Notice u/s. 41(A) Cr.PC to A2 dated 03.05.2021
	Ext.P4(b)/PW7	Notice u/s. 41(A) Cr.PC to A3 dated 03.05.2021
5	Ext.P5/PW7	Section adding report dated Nil
6	Ext.P6/PW8	First information report dated 25.02.2021
7	Ext.P7/PW9	Wound certificate dated 15.02.2021

B. Defence Exhibits

Sl.No.	Exhibit number	Description
1	Ext.D1	Certified copy of the common judgment in O.P. 236/21, O.P. 237/21, O.P. 240/21, O.P.1384/21 and MC 60/21 of Honourable Faimly court Kannnur dated 09.06.2023

C. Court Exhibits : NIL

D. Material Objects : NIL

Sd/-

JUDICIAL FIRST CLASS MAGISTRATE,
TALIPARAMBA

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